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8
9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11

12 VIRGINIA PELLEGRINI, Trustee of the
13 Mario J. and Virginia E. Pellegrini Trust,
14 and VIRGINIA PELLEGRINI, an
individual,

15 Plaintiffs,

16 v.

17 TECHNICHEM, INC., a California
18 corporation, MARK J. NG, an individual;
19 STEPHEN S. TUNG, an individual;

20 Defendants.
21

Case No. 07-CV-02497-CRB

**STIPULATION AND [PROPOSED]
ORDER RE: EXTENSION OF TIME TO
FILE AMENDED COMPLAINT**

Courtroom: 8, 19th floor
Judge: Charles R. Breyer

Complaint filed: May 9, 2007

22 Pursuant to Civil Local Rule 6-2 for the Northern District of California and Judge
23 Charles Breyer's Standing Orders, the parties hereto, Plaintiffs Virginia Pellegrini and
24 Virginia Pellegrini, Trustee of the Mario J. and Virginia E. Pellegrini Trust and Defendants
25 Technichem, Inc., Mark J. Ng, and Stephen S. Tung, by and through their respective
26 counsel of record, hereby stipulate, and request that the Court enter an order thereon,
27
28

1 that the parties shall have an extension of time until May 30, 2008, to file, without leave
2 of court, amended complaints in this matter.¹

3 The parties further stipulate that the briefing schedule on any motion to dismiss or
4 other motion in response to any amended complaint and the other procedural deadlines
5 set forth in the Supplemental Joint Case Management Conference Statement filed on
6 February 15, 2008 remain unchanged.

7 **WHEREAS**, the parties agreed to a scheduling order and briefing scheduling as
8 set forth in the Supplemental Joint Case Management Conference Statement filed on
9 February 15, 2008, which established April 30, 2008 as the last day to add new
10 claims/parties without leave of court;

11 **WHEREAS**, the parties have been unable to resolve a discovery dispute that
12 would identify additional parties to this action prior to the April 30, 2008 deadline to file
13 an amended complaint, without leave of court;

14 **WHEREAS**, Plaintiffs intend to add additional Defendants identified in discovery
15 responses of Defendant Technichem, but Technichem refuses to provide a complete
16 customer list to Plaintiffs. Therefore Plaintiffs will file a First Amended Complaint today,
17 but require this Stipulation and Proposed Order extending the time in order to resolve the
18 discovery dispute and ascertain the identities of additional potential defendants;

22 ¹ Local Rule 6-2 (Stipulated Request for Order Changing Time) provides in part:

- 23 (a) Form and Content. The parties may file a stipulation, conforming to Civil L.R. 7-12,
24 requesting an order changing time that would affect the date of an event or deadline
25 already fixed by Court order, or that would accelerate or extend time frames set in the
26 Local Rules or in the Federal Rules. The stipulated request must be accompanied by a
27 declaration that:
28 (1) Sets forth with particularity, the reasons for the requested enlargement or shortening
of time;
(2) Discloses all previous time modifications in the case, whether by stipulation or Court
order; and
(3) Describes the effect the requested time modification would have on the schedule for
the case.

1 **WHEREAS**, the parties agree that an extension of time to file plaintiffs' amended
 2 complaint is appropriate and that no additional modification of the scheduling order is
 3 required;

4 **WHEREAS**, Paragraph 4 of Judge Breyer's Standing Orders provides that parties
 5 seeking to modify the briefing schedule or make other procedural changes "shall submit
 6 a signed stipulation and proposed order";

7 **WHEREAS**, Local Rules 6-1(b) for the Northern District of California provides in
 8 relevant part:

9 *(b) When Court Order Necessary to Change Time.* A Court order is required
 10 for any enlargement or shortening of time that alters an event or deadline
 11 already fixed by Court order or that involves papers required to be filed or
 12 lodged with the Court (other than an initial response to the complaint). A
 13 request for a Court order enlarging or shortening time may be made by
 14 written stipulation pursuant to Civil L.R. 6-2 or motion pursuant to Civil L.R.
 15 6-3. Any stipulated request or motion which affects a hearing or proceeding
 16 on the Court's calendar must be filed no later than 10 days before the
 17 scheduled event.

18 **WHEREAS**, there have been no other previous time modifications in this case,
 19 whether by stipulation or by Court order, to the schedule established in the Supplemental
 20 Joint Case Management Conference Statement;

21 **WHEREAS**, since the parties do not oppose any subsequent amendment to the
 22 complaint to add additional parties and do not request any other changes to the
 23 scheduling order, the time modification is not expected to have any effect on the
 24 schedule of the case.

25 **THEREFORE, SUBJECT TO APPROVAL OF THE COURT, IT IS**
 26 **HEREBY STIPULATED THAT:**

- 27 1. The last day to file an amended complaint to add new parties or new claims
 28 will be on or before May 30, 2008; and
- 29 2. All procedural deadlines, including discovery cut-offs, expert disclosures,
 30 pretrial conference, and the trial date will be unchanged as set forth in the
 31 Supplemental Joint Case Management Conference Statement and Judge
 32 Breyer's Trial and Pretrial Conference Guidelines.

1 Dated: April 30, 2008

GORDON & REES LLP

2
3 By: 

Brian M. Ledger

4 Paul A. Henreid

Attorneys for Defendants

5 TECHNICHEM, INC.; MARK J. NG; and STEPHEN
6 S. TUNG

7
8 Dated: April 30, 2008

WACTOR & WICK LLP

9
10 By: 

11 WILLIAM D. WICK

12 JON K. WACTOR

ANNA L. NGUYEN

13 Attorneys for Plaintiffs

14 Virginia Pellegrini, and Virginia Pellegrini,

15 Trustee of the Mario J. and Virginia E. Pellegrini
16 Trust

17 **ORDER**

18 PURSUANT TO STIPULATION, **IT IS SO ORDERED.**

19
20 Date: _____

Honorable Judge Charles Breyer

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 180 Grand Avenue, Suite 950, Oakland, California. On April 30, 2008 I served the within document(s):

**STIPULATION AND [PROPOSED] ORDER RE: EXTENSION OF TIME TO FILE
AMENDED COMPLAINT - CASE NO. 07-CV-02497-CRB**

X By electronically filing the document(s) listed above with the United States District Court, Northern District of California through CM/ECF (E-file);

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in United States mail in the State of California at Oakland, CA, addressed as set forth below;

by causing the document(s) listed above to be personally delivered to the person(s) at the address(es) set forth below;

by placing the document(s) listed above in a sealed envelope with postage fully prepaid, and mailing via overnight mail service, addressed as set forth below.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 30, 2008 at Oakland, California.

Carol B. Ebert
Carol B. Ebert

Addressee(s):

Brian M. Ledger
Paul A. Henreid
Gordon & Rees LLP
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San Diego, CA 92101
Attorneys for Defendants Technichem Inc.,